IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

WRIT PETITION NO. 665 OF 2001 (M/S)
Old CMWP No. 13204 of 1995

1. State of U.P. through the Collector Dehradun
2. Competent Authority, Urban Land Ceiling
   Dehradun.

… **Petitioners.**

Versus

1. District Judge, Dehradun
2. Daulat Ram S/O Duli Chandra,
3. Pratap Singh S/O Duli Chandra
   All R/O Pathari Bhag, Dehradun.

… **Respondents.**

Dated 02-03-2006

Hon'ble B.S. Verma, J.

By means of the present Writ Petition, the petitioners-State has challenged the judgment and order dated 05-04-1994 passed by the District Judge, Dehradun (respondent no. 1) in Urban Land Ceiling Appeal No.110 of 1988, Sri Daulat Ram vs. State of U.P. another. By the impugned judgment and order (***Annexure- 4 to the writ petition),*** respondent no. 1 allowed the appeal and held that the appellant does not have any land in excess of the ceiling limit.

Brief facts giving rise to the present writ petition are that initially in pursuance of the provisions of Section 6(1) of the Urban Land (Ceiling and Regulation) Act ***(in short the Act),*** the land holder filed the statement of properties held by him and proceedings were drawn. The proceedings were dropped on the ground that the land in possession of the land holder was agricultural land by the competent authority. Subsequently, after enforcement of the Master Plan, proceedings were again initiated and after necessary inquiry and survey, land to the extent of 3704.86 sq.mt. was proposed to be declared surplus excess land under the provisions of Section 8(3) of the Act.

Notices were issued to the land-holder and draft statement was issued under Section 8(3) of the Act proposing aforesaid land to be declared as surplus vacant land and the proceedings were initiated. The land-holder filed objection through his lawyer. The learned Competent Authority after perusing the material on record came to the conclusion that the landholder was possessed of surplus vacant land as aforesaid and passed the impugned judgment and order dated 10-3-1987 declaring 3704.86 sq.mt. land as excess vacant land in possession of the landholder. Aggrieved by the said order, land holder (contesting respondent no. 2) preferred appeal before the District Judge. The learned District Judge after hearing both the parties passed the impugned judgment and order dated 05-04-1994 as mentioned above. Aggrieved by the impugned order, the State has come up before this Court in the Writ Petition.

I have heard learned Standing Counsel for the State and perused the record.

The Act Urban Land (Ceiling and Regulation) Act, 1976 (Act No. 33 of 1976) was repealed by the Central Act No. 15 of 1999. The Legislature of State of U.P. has since adopted the provisions of the Urban Land (Ceiling and Regulation) Act 1999, by a resolution as required by Article 252(2) of the Constitution, which has come into force in Uttar Pradesh on 18-03-1999 and the same are also applicable in the State of Uttaranchal.

Section 4 of the Urban Land (Ceiling and Regulation) Repeal Act, 1999 provides as under:

> ***"4. Abatement of legal proceedings.- All proceedings relation to any order made or purported to be made under the principal Act pending immediately before the commencement of this Act, before any Court, Tribunal or other authority shall abate;***

Provided that this section shall not apply to the proceedings relating to Sections 11, 12, 13 and 14 of the principal Act in so far as such proceedings are relatable to the land possession of which has been taken over by the State Government or any person duly authorized by the State Government in this behalf or by the competent authority."

As stated by the learned Standing Counsel, Sri Nand Prasad, appearing on behalf of the State, no declaration has been published under Section 10(3) of the principal Act, therefore, no question of vesting of the land in the State or taking over possession arises. The effect of the repealing Act on present case is that where for land in dispute, no declaration was published under Section 10(3) of the Act, there is no question of vesting the land in the State or taking over possession of it. The present proceedings have to be abated and are hereby abated under Section 4 of the Urban Land (Ceiling and Regulation) Repeal Act, 1999.

The facts of the case are squarely covered by the judgment of the Apex Court in the case of ***"Pt. Madan Swaroop Shrotiya Public Charitable Trust Vs. State of U.P. and others" (2000, AIR, SCW, 1882).***

In view of the above, the Writ Petition has become infructuous and is dismissed as infructuous. Ordered accordingly.

(B.S. Verma, J.)

RCP